IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.100 OF 2007

Shri Dhondu Gopal Gurao ...Applicant
Versus
Smt Sunanda Anant Gore ...Respondent

Shri B.P.Jakhade for the Applicant.
Shri V.S.Paradkar for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 22, 2007.

P.C.:

1. Submissions of the learned Advocates appearing for the parties were heard on the last date. The order was not passed on that day as the learned Advocate for the Applicant sought time to take instructions from the Applicant.

2. The Applicant is the tenant and the Respondent is the landlord. The suit for eviction was filed by the Respondent landlord on various grounds. The trial Court after considering the evidence led by the parties dismissed the suit. In an Appeal preferred by the Respondent, a decree for possession has been passed against the Applicant. The Appellate Court held that the bonafide requirement has been established by the landlord.

3. The learned Advocate for the revision Applicant submitted that the trial Court had rightly rejected the ground of the bonafide requirement. She submitted that there is no real and genuine need for the Respondent to occupy the suit premises. She stated that infact earlier the Respondent had approached the Applicant with

a proposal that he wanted to reconstruct the suit building. She submitted that financial condition of the Applicant is very poor and the daughter-in-law of the Applicant who deposed before the Court stated that she was working as a maid servant. The learned Advocate for the Respondent supported the impugned judgment and order.

4. I have considered the submissions. The family of the Respondent consists of herself, her husband, a son and a daughter. The present residential premises in possession of the Respondent consists of one bedroom, one sitting room and one kitchen and total area is about 410 sq feet. It is brought on record that the Respondent is physically disabled and is bedridden for last several years. At the time of recording of evidence, the age of the son of the Respondent is stated to be 25 years and therefore, it was contended that he was of a marriageable age.

5. Considering the small size of the tenement held by the Respondent and considering the evidence on record regarding physical handicap of the Respondent, the learned Appellate Court has accepted the case of bonafide requirement. The area of the suit premises is 120 sq feet.

6. While considering the issue of comparative

hardship, the learned Judge has noted that the Applicant is a retired person. The daughter-in-law of the Applicant is working as a maid servant. On the other hand the Respondent is handicapped. At the relevant time, the Respondent's son was of marriageable age. These are the factors considered by the learned Appellate Bench of the Small Causes Court and a finding of fact has been recorded in favour of the Respondent on the issue of comparative hardship. Considering the material on record, it is difficult to interfere with the finding of fact in revisional jurisdiction.

7. Considering the peculiar facts of the case, I was inclined to grant a longer time to vacate the suit premises to the Applicant provided the Applicant was ready and willing to give an undertaking to vacate within the time granted by this Court. The learned Advocate for the Applicant had therefore taken time to take instructions. Today, she stated that the Applicant is not ready and willing to give undertaking to vacate the suit premises within the time granted by this Court.

8. There is no merit in the revision Application and the same is rejected. On the prayer made by the Advocate for the Applicant, ad-interim relief granted on 10th April, 2007 will continue to operate for a period of three months subject to condition that the Applicant will not create any third party interests and will not

part with possession of the suit premises.

JUDGE